

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Circuit Mediation Office

Phone (415) 355-7900 Fax (415) 355-8566

<http://www.ca9.uscourts.gov/mediation>**MEDIATION QUESTIONNAIRE**

The purpose of this questionnaire is to help the court's mediators provide the best possible mediation service in this case; it serves no other function. Responses to this questionnaire are **not** confidential. Appellants/Petitioners must electronically file this document within 7 days of the docketing of the case. 9th Cir. R. 3-4 and 15-2. Appellees/Respondents may file the questionnaire, but are not required to do so.

9th Circuit Case Number(s):	11-17615		
District Court/Agency Case Number(s):	2:09-md-02119-JAT		
District Court/Agency Location:	U.S. District Court for Arizona, Phoenix		
Case Name:	Jonathan Robinson, et al.	v.	American Home Mortgage Servicing, et al.
If District Court, docket entry number(s) of order(s) appealed from:	Dkt. No. 1602 (10/3/11) - Order and Certification of Final Judgment		
Name of party/parties submitting this form:	Appellees GE Money Bank & American Home Mortgage Servicing		

Please briefly describe the dispute that gave rise to this lawsuit.

Appellants are named plaintiffs in several putative class action and individual lawsuits challenging the use of the Mortgage Electronic Registration System (MERS) as a beneficiary on deeds of trust in non-judicial foreclosure jurisdictions. The cases were centralized in the District of Arizona by the Judicial Panel on Multidistrict Litigation. (The Panel also remanded to the original courts all claims unrelated to the formation and operation of MERS from the original lawsuits.) In the consolidated actions, Appellants contend - under various statutory and common law theories of recovery - that MERS is not a valid beneficiary on the Deed of Trust and therefore the naming of MERS as such splits the deed of trust from the note rendering the notes unsecured. Appellants also contend that the involvement of MERS means that the entities that own the loans do not actually own them and the entities that service the loans do not have the right to collect loan payments or initiate foreclosure.

Briefly describe the result below and the main issues on appeal.

The District Court dismissed Appellants' Consolidated Amended Master Complaint with prejudice because Appellants had failed to state a claim as a matter of law. According to the court, Appellants made no showing that the use of MERS as a beneficiary on a deed of trust was improper or in contravention of law. The court also denied Appellants' request to amend finding that further amendment would be futile.

(Please continue to next page)

Describe any proceedings remaining below or any related proceedings in other tribunals.

No proceedings remain below. While some of the remanded claims that do not pertain to the use of MERS remain pending in the transferrer courts, these claims have no relation to the issues involved in the present appeal.

Provide any other thoughts you would like to bring to the attention of the mediator.

Appellees GE Money Bank & American Home Mortgage Servicing, Inc. do not believe that mediation would assist in the resolution of this appeal, which turns on a purely legal question.

Any party may provide additional information *in confidence* directly to the Circuit Mediation Office at ca09_mediation@ca9.uscourts.gov. Please provide the case name and Ninth Circuit case number in your message. Additional information might include interest in including this case in the mediation program, the case's settlement history, issues beyond the litigation that the parties might address in a settlement context, or future events that might affect the parties' willingness or ability to mediate the case.

CERTIFICATION OF COUNSEL

I certify that:

☒ a current service list with telephone and fax numbers and email addresses is attached (see 9th Circuit Rule 3-2).

☒ I understand that failure to provide the Court with a completed form and service list may result in sanctions, including dismissal of the appeal.

Signature

("s/" plus attorney name may be used in lieu of a manual signature on electronically-filed documents.)

Counsel for

Note: Use of the Appellate ECF system is mandatory for all attorneys filing in this Court, unless they are granted an exemption from using the system. **File this document electronically** in Appellate ECF by choosing Forms/Notices/Disclosure > File a Mediation Questionnaire.

9th Circuit Case Number(s) 11-17615

NOTE: To secure your input, you should print the filled-in form to PDF (File > Print > *PDF Printer/Creator*).

CERTIFICATE OF SERVICE

When All Case Participants are Registered for the Appellate CM/ECF System

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on (date) .

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Signature (use "s/" format)

CERTIFICATE OF SERVICE

When Not All Case Participants are Registered for the Appellate CM/ECF System

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on (date) Nov 7, 2011.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants:

see attached.

Signature (use "s/" format)

s/ Andrew R. Louis

ATTACHMENT TO CERTIFICATE OF SERVICE

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